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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROGELIO SERRATO, DECEASED,  
THROUGH HIS SUCCESSORS IN INTEREST,  
JULIAN SERRATO, AND ISRAEL SERRATO,  
MINORS, et al,

Plaintiffs,

vs.

MONTEREY COUNTY, a public entity, et al,

Defendants.

RITA SERRATO, et al,

Plaintiffs,

vs.

COUNTY OF MONTEREY, et al,

Defendants.

Case No. 5:11-cv-03642 RMW  
And related Case No. 5:11-cv-04106 RMW

**AMENDED PETITION APPOINTING  
GUARDIAN AD LITEM AND APPROVING  
MINORS' COMPROMISE AND  
~~(PROPOSED)~~ ORDER**

Petitioner EVELYN BELTRAN respectfully represents:

1. Petitioner EVELYN BELTRAIN is the natural mother of minor plaintiffs I.S. and D.B. Minor Plaintiff I.S. was born in 2001 and is presently twelve years old. Minor Plaintiff D.B. was born in 2006, and is presently 7 years old.

2. Minor Plaintiffs I.S. and D.B. have causes of action against the named defendants herein on which a lawsuit was brought in this court for violation of civil rights, wrongful death and

1 personal injury tort claims under Federal and State statutes. They are the children of Decedent  
2 ROGELIO SERRATO. Defendants previously demanded proof of paternity regarding Minor  
3 Plaintiff D.B. After meeting and conferring with defense counsel, that issue is now moot.

4 3. Plaintiffs' causes of action arise out of an incident, which occurred on January 5,  
5 2011, in which Decedent ROGELIO SERRATO was killed during a house fire set by Defendants use  
6 of a flash-bang device ignited inside the residence. Several of Decedent's family members were  
7 present outside the residence during the incident, including Plaintiffs RITA SERRATO,  
8 ELIZABETH SERRATO, DIANA SERRATO, and CLAUDIA SERRATO. The house to which the  
9 fire was set was the SERRATO's house. The aforementioned adult Plaintiffs have claims including,  
10 for RITA SERRATO only, a 14<sup>th</sup> Amendment claim for Interference with Familial Relationships  
11 pertaining to the death of her son, and for all of the adult Plaintiffs state law claims for Negligent  
12 Infliction of Emotional Distress, given that they were present when Decedent was in the burning  
13 house, were aware that he was inside the house, and suffered damages as a consequence. Minor  
14 Plaintiffs I.S. and D.B. were not present during the house fire and do not have claims for Negligent  
15 Infliction of Emotional Distress.

16 4. Petitioner is willing to serve as the minors Guardian Ad Litem. Petitioner is fully  
17 competent to understand and protect the rights of the minors, and has no interest adverse to that of  
18 these minors.

19 5. Petitioner requests that she be appointed guardian ad litem for her daughter and son, as  
20 denoted above, to prosecute the above-described causes of action on behalf of her daughter and son  
21 as denoted above, and for such other relief as the Court may deem just and proper.

22 6. The parties in this and in the related case ROGELIO SERRATO, et al, Case No. 5:11-  
23 cv-03642 RMW, have reached a settlement in this matter. The total settlement of both related cases  
24 is \$2,600,000, including all costs and attorneys' fees. This Court has previously approved the  
25 minors' compromise filed in the related action. Of the total settlement, \$1,225,000.00 has been  
26 agreed to be shared between the parties in the instant-action, RITA SERRATO, et al, including  
27 attorney's fees. Minor plaintiffs I.S. and D.B.'s share of the settlement proceeds from the  
28

1 \$1,225,000.00 apportioned for Plaintiffs in the instant action shall be in the total amount \$428,750.00  
 2 each (35% each share of the settlement), which shall be distributed as follows:

3 a. Attorney fees for Minor Plaintiffs I.S. and D.B. shall be at 25% each of their  
 4 total recovery, for \$107,187.50 each, pursuant to the contingency fee agreement in this case.

5 b. Proportionate with Minor Plaintiffs I.S. and D.B.'s share of the \$1,225,000.00  
 6 recovery, Minor Plaintiffs shall bear 35% each of the total \$16,494.34 in litigation costs  
 7 incurred by her counsel in this action, or \$5,773.02.

8 c. Minor Plaintiffs I.S.'s and D.B.'s net settlements are in the amount of  
 9 \$315,789.48 each.

10 d. Minor Plaintiffs I.S. and D.B.'s net settlement shall be placed in a structured  
 11 settlement as set forth in confidential, sealed Exhibits A and B attached hereto. The settlement  
 12 shall be disbursed according to the terms of the structured settlement proposal.

13 9. This petition was prepared by the Law Offices of John L. Burris, the lead counsel  
 14 representing plaintiffs in this action. Benjamin Nisenbaum, Esq. of the Law Offices of John L. Burris  
 15 also represents plaintiffs and is in agreement with the terms of this Petition. John L. Burris, Esq. and  
 16 Benjamin Nisenbaum, Esq. hereby represent to the Court that they became involved in this case at the  
 17 request of plaintiffs, and have not received, and do not expect to receive any compensation for their  
 18 services in connection with this action from any person other than the parties whom they represent in  
 19 this action.

20 10. Petitioner and her counsel have made a careful and diligent inquiry and investigation  
 21 to ascertain the facts relating to the subject incidents, the responsibility therefore, and the nature and  
 22 extent of injury to the minor plaintiffs, and fully understand that if the compromise herein proposed is  
 23 approved by the Court and is consummated, said minor plaintiffs will be forever barred and  
 24 prevented from seeking any further recovery of compensation as against all Defendants in this action,  
 25 even if said minors' losses and injuries might in the future prove to be more serious than they are now  
 26 thought to be.

27 11. Petitioners recommend this compromise settlement to the Court as being fair, reasonable, and  
 28 in the best interests of said minor plaintiffs.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 17, 2013

/s/Benjamin Nisenbaum

Benjamin Nisenbaum  
Attorney for Plaintiffs

**ORDER**

PURSUANT TO PLAINTIFFS' PETITION, the Court hereby grants Plaintiffs' petition according to the terms of the terms of the petition herein.

EVELYN BELTRAN is hereby appointed Guardian Ad Litem to prosecute the claims of Minor Plaintiffs I.S. and D.B. in this action. The Court approves the Petition to Compromise Minor Plaintiffs I.S. and D.B.'s claims, and orders as follows:

a. Minor Plaintiffs I.S. and D.B. shall receive settlement in the amount of \$428,750.00 each in this action.

b. Attorney fees for Minor Plaintiffs I.S. and D.B. shall be at 25% of their total recovery, in the amount of \$107,187.50 each, payable to their attorney, John L. Burris.

c. Minor Plaintiffs I.S. and D.B. shall bear 35% each of the total \$16,494.34 in litigation costs incurred by their counsel in this action, or \$5,773.02, payable to their attorney, John L. Burris.

d. Minor Plaintiffs I.S. and D.B.'s net settlements in the amount of \$315,789.48 each shall fund the structured settlements filed confidentially under seal herein, and shall be disbursed according to the terms of the structured settlement proposal filed confidentially under seal herein. Defendants shall work with the broker of Plaintiff's choice to properly fund the structured settlement.

Upon receipt of the full amount of the settlement sum herein approved and the deposit of the funds, Petitioners are hereby authorized and directed to execute and deliver to payer and defendants, if Petitioners have not yet done so at that time, a full, complete, and final Release and discharge of and from any and all claims and demands of said minors by reason of the incident described in said Petition and the resulting injuries and damages to said minors.

Dated: October 29, 2013

  
HON. RONALD M. WHYTE

UNITED STATES DISTRICT COURT JUDGE